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DEC 30 2004

OFFICE OF PETITIONS

In re Application of :
Christa Wohriska : DECISION GRANTED
Application No. 10/815,547 :
Deposited: April 1, 2004 :
Attorney Docket No.: RUFF CASE 28 :

This is a decision on the "Petition for Grant of Filing Date Under 37 CFR 1.53(e)" filed December 13, 2004, requesting that the above-identified application be accorded the filing date of April 1, 2004.

Application papers in the above-identified application were deposited on April 1, 2004. However, on October 14, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.¹

In response, 3 sheets of drawings, including figures 1-8 and the present petition were filed on December 13, 2004. The petition contends that the application as filed included 3 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "Sheets of Drawings 3 " on April 1, 2004.

Applicant's postcard receipt is prima facie² evidence that

¹See 35 U.S.C. 111(a)(4)

²A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of

drawings were received on April 1, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 3 sheets of drawings, including figures 1-8, were received on April 1, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on December 13, 2004, will be used for processing and examination purposes.

Effective November 22, 2004, the petition fee to accord a filing date under 37 CFR 1.53 is \$400. The \$130.00 submitted towards the current \$400 petition fee will be refunded via a treasury check.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 1, 2004, using the 3 sheets of drawings supplied on December 13, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petition Attorney
Office of Petitions

receipt in the office of all items listed thereon. See MPEP 503.